

**REMARKS/ARGUMENTS**

Claims 138-141, 143 and 145-158 are pending. By this Amendment, claim 138 is amended, claims 142 and 144 are canceled, and claims 156-158 are added. Reconsideration in view of the above amendments and the following remarks are respectfully requested.

At the outset, attached is an English-language translation of JP 62-11745 cited on Form PTO/SB/08a of the Information Disclosure Statement filed October 14, 2009. It is noted that the Examiner already considered this reference, which is much appreciated by the Applicants.

Claims 138-150 were rejected under 35 U.S.C. §103(a) over Ingram et al. (U.S. Patent No. 5,611,446). This rejection is respectfully traversed.

Claim 138 defines a cap arrangement comprising an opening-indicator device having an outer edge wherefrom fin members lead away and extend, in use, internally of said cap arrangement, said fin members being intended to form an abutment for projection elements projecting from a neck of a container arrangement with which said cap arrangement can be associated, said fin members comprising an elongated element extending substantially rectilinearly from said opening-indicator device, said fin members further comprising flexible appendage elements forming a free end of said fin members, said elongated element having a first end connected with said opening-indicator device and a second end, opposite said first end, to which said appendage elements are connected, said flexible appendage elements having a substantially uniform thickness, said appendage elements leading away from said second end and being thinner than said second end such that said second end has, contiguously to said appendage elements in a direction of said uniform thickness, a zone of interaction adapted to abut against said projection elements, said first end comprising a deformable zone acting as plastic hinge to connect said elongated element to said opening-indicator device, said appendage elements being

movable between a folded configuration in which, during the application of said cap arrangement to the neck of the container, said appendage elements are contained in the thickness of said elongated element, and an extended configuration in which said appendage elements extend substantially transversely from said elongated element and in which said appendage elements have a curved profile adapted to partially surround said projection elements when said zone of interaction abuts against said projection elements in such a way as to prevent overturning of said fin members around said deformable zone during the first opening of the container.

Claim 138 thus introduces the folded and extended configurations of the appendage elements, which is evident from the present specification, see e.g., paragraphs [0063], [0087] and [0088], as well as canceled claim 142, which subject matter is now incorporated in claim 138.

### **Patentability**

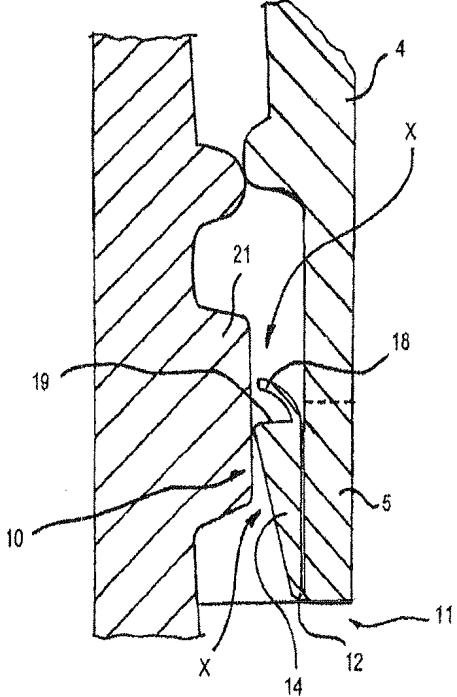
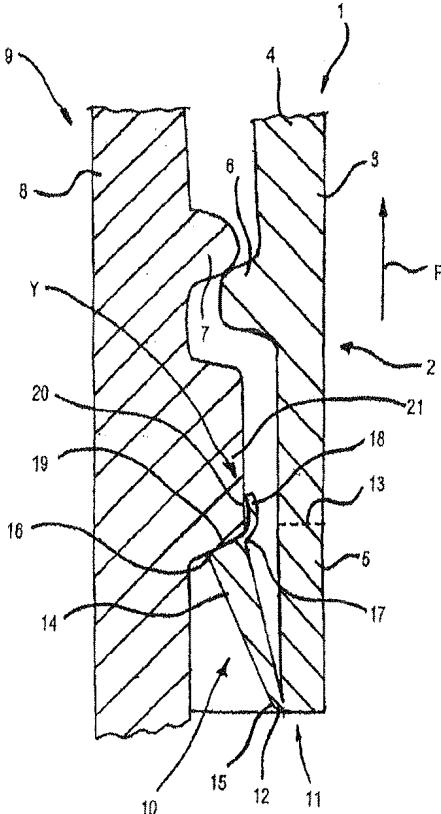
It is believed that amended claim 138 is not rendered obvious by Ingram et al.

#### **Claim 138**

Generally, the elongated element 14 has a second end to which the appendage elements 18 are connected, and the flexible appendage elements have a uniform thickness and are thinner than the second end such that the second end has, contiguously to the appendage elements in a direction of the uniform thickness, a zone of interaction 19 adapted to abut against the projection elements.

The examiner stated that Ingram et al. disclose a zone of interaction which abuts against the projection elements. However in Ingram et al. the zone of interaction is not a surface arranged in the elongated element and, moreover, is not located in a direction of the uniform thickness of the appendage elements.

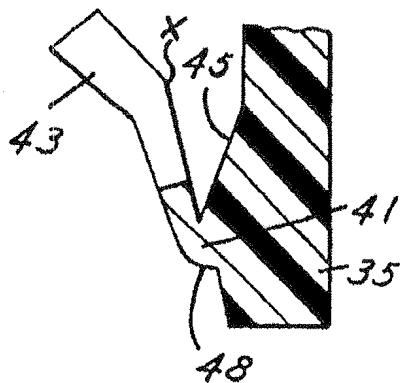
The claimed solution does not simply resides in changing the size of the appendage elements, but it may be considered as involving a change in size so that to achieve a technical solution (the provision of an abutting zone arranged in the elongated element from which the appendage elements lead away) which is not taught by Ingram et al..

 <p><u>Folded configuration</u> <u>during cap insertion</u></p>	 <p><u>Extended configuration</u> <u>during container first opening</u></p>
<p>In this configuration, which occurs during the application of the cap arrangement to the neck of the container, the appendage elements 18 are contained in the thickness of the elongated element 14. The application of the cap arrangement to the neck of the container is easier in that the appendage elements 18 do not substantially interact with the neck. There is no obstruction or resistance offered by the elements 18.</p>	<p>In this configuration, the appendage elements 18 extend substantially transversely from the elongated element 14 and have a curved profile which partially surrounds the projection elements when the zone of interaction 19 abuts against the projection elements in such a way as to prevent overturning of the fin members around the deformable zone 12 during the first opening of the container.</p>

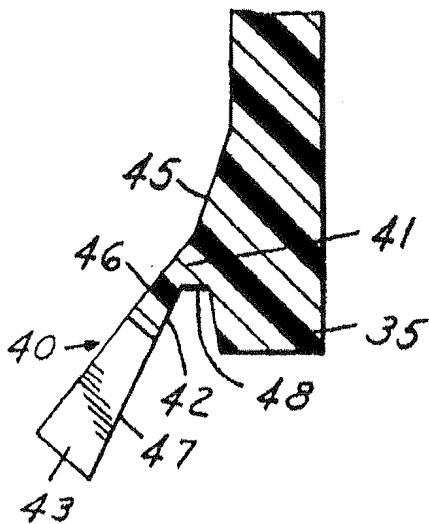
The folded and extended configurations as claimed are not disclosed by Ingram et al.. It is observed that, according to the above claimed configurations, the shape and arrangement of the appendage elements 18 enables to achieve a substantial absence of interaction with the neck during the first insertion of the cap arrangement onto the neck,

and an active relationship between the appendage elements 18 and the neck during the first opening of the container in cooperation with the abutting action exerted by the interaction zone of the elongated element.

Ingram et al.



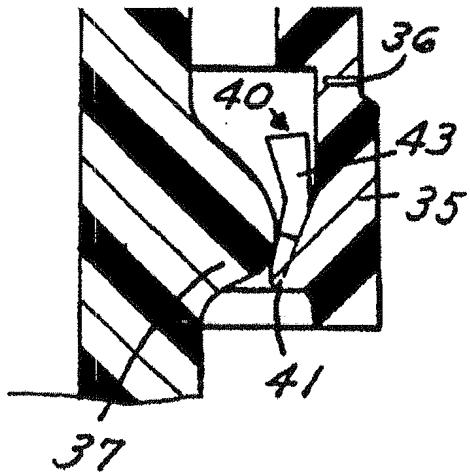
Folded configuration



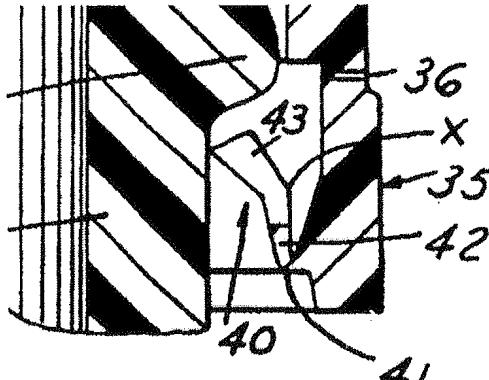
Extended configuration

In the folded configuration the appendage 43 is not contained in the thickness of the elongated element 42.

In Ingram et al. the extended configuration does not occur during the first opening of the container.



Insertion of the cap

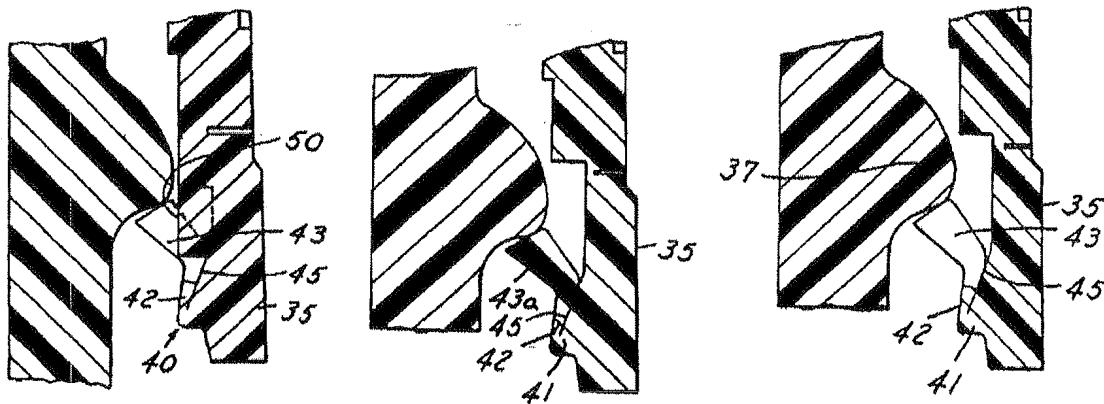


First opening of the container

During the application of the cap

It is never disclosed that, during the first

The Examiner argues that Ingram et al. discloses a zone of interaction which abuts against the projection elements. This is true. However, in claim 138 such interaction zone acts during the first opening of the container and is provided on the second end of the elongated element from which the appendage elements project, whilst in Ingram et al., when the container is open for the first time, such interaction zone is always provided on the appendage element 43 and never on the elongated element 42.



Reconsideration and withdrawal of the rejection are respectfully requested.

New claims 156-158 are presented for the Examiner's consideration and further distinguish over the teachings of Ingram et al. Claims 156-158 read on the elected invention.

In view of the above amendments and remarks, Applicants respectfully submit that all the claims are patentable and that the entire application is in condition for allowance.

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140 under Order No. PTB-4017-98.

Should the Examiner believe that anything further is desirable to place the application in better condition for allowance, she is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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PTB:jck  
Attachment:  
English-Language Translation of JP 62-11745

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